

## 980 CMR 13.00: ENERGY FACILITIES SITING BOARD

### 980 CMR: 13.00: CONSOLIDATED PERMITS FOR CLEAN ENERGY INFRASTRUCTURE FACILITIES

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#### 13.01: Scope and Purpose.

(1) Purpose. 980 CMR 13.00 establishes the Board's rules for preparation and review of an Application for an EFSB Consolidated Permit for a request to construct CEIFs.

(2) Scope. 980 CMR 13.00 shall apply to an Application for an EFSB Consolidated Permit for requests to the Board to construct CEIFs, pursuant to M.G.L. c. 164 §§ 69T, 69U, 69V. The review of an Application for an EFSB Consolidated Permit for CEIFs described in 980 CMR 13.00 shall be subject to 980 CMR 1.00: *Rules for the Conduct of Adjudicatory Proceedings* and 980 CMR 2.00: *General Information and Conduct of Board Business*, unless otherwise noted.

(3) Effective Date. 980 CMR 13.00 shall take effect on March 1, 2026, and shall apply to each Application for an EFSB Consolidated Permit to construct CEIFs, pursuant to M.G.L. c. 164 §§ 69T, 69U, 69V, filed on or after July 1, 2026.

(4) Definitions. 980 CMR 13.00 shall be subject to the definitions of 980 CMR 1.01(4): *Definitions*. The following additional definitions shall apply unless the context or subject matter requires a different interpretation:

Application means a submission to the Board, in such form and detail as prescribed by the Board, by an Applicant for an EFSB Consolidated Permit for the purpose of constructing, owning, or operating a CEIF Project.

Common Condition means a condition or requirement established by the Board for specific types of CEIF as identified in “13.00: EFSB Consolidated Permit Application Guidance,” Attachment 1: *Common Conditions and Requirements for EFSB Consolidated Permits*.

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Completeness Determination means a ruling by the Presiding Officer indicating whether an Application substantially and materially complies with the Board's Application requirements.

Consolidated Local Permit Application means a submission by an Applicant, in such form and detail as prescribed in 225 CMR 29.00, that would otherwise go to a Local Government for a Consolidated Local Permit, for the purpose of obtaining permission to construct, own, or operate a CEIF Project. An Applicant may elect to submit a Consolidated Local Permit Application and the Board may issue a Consolidated Local Permit as part of an EFSB Consolidated Permit, pursuant to M.G.L. c. 164 §§ 69T and 69U. Alternatively, an Applicant may elect to use extant PEA Application forms, and receive individual local Permits under M.G.L. c. 164 §§ 69T and 69U.

Construction means work performed by the Applicant, or on behalf of the Applicant, on the CEIF Project site, or along the Project route, but shall not include contractual obligations to purchase such facilities or equipment, or preliminary work in furtherance of permitting (e.g., soil boring, surveys) that does not impose significant adverse impacts.

Criteria-specific Suitability Scores means the score for each criterion examined in the Site Suitability Guidance, as assessed following the methods outlined in the Site Suitability Guidance.

Ministerial Permit means a non-discretionary Permit or approval for a CEIF Project that meets objective, pre-defined codes and standards, and is typically approved in a streamlined, time-bound, administrative process that does not involve adjudication. A Ministerial Permit is usually issued after other adjudicatory or discretionary Permits are issued, and the project is at a more advanced state of design completion, prior to the intended start of construction or operation of a CEIF Project.

Notice of Completeness means notice by the Presiding Officer that the Application substantially and materially complies with all Application requirements.

Permit Enforcement Agency (PEA) means an agency, authority, board, commission, office, or other entity that would have jurisdiction to issue at least one Permit for a CEIF Project in the absence of an EFSB Consolidated Permit. PEAs enforce the portions of an EFSB Consolidated Permit that relate to subject matters within their jurisdiction as if such portions had been directly granted by the PEA. PEA may include Local Government and Local Government Representatives.

Permit Advisory Agency (PAA) means a municipal, regional, or state agency, authority, board, commission, office, or other entity that would advise a PEA concerning recommended Permit conditions on the issuance of at least one Permit for a CEIF Project that would otherwise be issued without an EFSB Consolidated Permit, but does not have jurisdiction for issuance of such Permit(s).

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Site Suitability Guidance means guidance and criteria for the assessment of the suitability of the proposed siting of a CEIFs, as established by the Executive Office of Energy and Environmental Affairs, pursuant to M.G.L. c. 21A, § 30.

Site Suitability Score Modifier means positive or negative adjustments to a CEIF's Criteria-specific Suitability Scores that are reflective of development potential or social and environmental benefits, as prescribed in the Site Suitability Guidance.

(5) Guidance. The Board shall issue "13.00: EFSB Consolidated Permit Application Guidance" to assist the Applicant and provide context for submissions to the Board. The Board, by majority vote, may update Guidance at any meeting open to the public.

### 13.02: Overview of EFSB Consolidated Permit.

(1) Application. The Applicant shall submit to the Board an Application that complies with the requirements of 980 CMR 13.00: *Consolidated Permit Regulations*.

(a) An Applicant submitting a SCTDIF Application pursuant to M.G.L. c. 164, § 69U, shall include a showing of good cause for the petition, a description of how the SCTDIF will serve public convenience and is consistent with the public interest.

(2) Completeness Determination. The Presiding Officer shall determine whether the Application satisfies each Application requirement. See 980 CMR 13.06: *Completeness Determination*.

(3) Adjudication of the Application. The Presiding Officer shall conduct the adjudicatory process on behalf of the Board for a CEIF Project, as described in 980 CMR 13.07: *EFSB Consolidated Permit Application Procedures*, following a Notice of Completeness.

(4) Board Decision. The Board shall render a decision for an EFSB Consolidated Permit as described in 980 CMR 13.10: *EFSB Consolidated Permit Decisions*. The decision shall include conditions and Permit requirements as described in 980 CMR 13.09: *Conditions for EFSB Consolidated Permit*.

(a) Review Timeframe. The Board shall issue a decision on each CEIF Project Application within the following timeframes, following a Notice of Completeness:

1. 15 months for LCEIF Applications, pursuant to M.G.L. c. 164 § 69T(i);
2. 12 months for SCTDIF Applications, pursuant to M.G.L. c. 164 § 69U(c); and
3. 12 months for SCEGF and SCESF Applications, pursuant to M.G.L. c. 164 § 69V(c).

(b) Reduced Timeframes. The Board may establish shorter review timeframes than the maximum review timeframes for different types of CEIF Projects.

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(c) Construction of a CEIF Project. No Applicant shall commence Construction of a CEIF Project at a site or along a CEIF Project route before an Application for an EFSB Consolidated Permit has been approved by the Board.

(5) Constructive Approval. Pursuant to M.G.L. c. 164 §§ 69T(i), 69U(c), 69V(c), a CEIF Project Application shall be deemed approved, pursuant to 980 CMR 17.00: *Constructive Approval by Operation of Law*, if the Board does not issue a final decision, described in 980 CMR 13.10: *EFSB Consolidated Permit Decisions*, within the applicable statutory review timeframe, 980 CMR 13.02(4)(a): *Review Timeframe*.

### 13.03: EFSB Consolidated Permit Application Requirements.

(1) General Requirements. The following requirements shall apply to an Application for an EFSB Consolidated Permit submitted to the Board, unless otherwise stated. The Applicant shall file the following information with its Application:

(a) Application Summary Form. The Applicant shall submit a completed Application summary form. The Application summary form shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(b) Description of the CEIF Project, Site, and Surrounding Area. The Applicant shall describe the CEIF Project, site, and surrounding area with relevant maps, figures, drawings, or other attachments. The description shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.” The Applicant may include visual media illustrating the CEIF Project, site, and surrounding area with an Application. Visual media, if provided, shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(c) Accessibility of Project Information. The Applicant shall describe how the public can access CEIF Project information, how CEIF Project materials are consistent with the Board’s Language Access Plan, and provisions for meeting additional locality specific accessibility needs. Accessibility for CEIF Project information shall meet the Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(d) Consultation and Community Engagement.

1. Pre-filing Consultation and Engagement. The Applicant shall demonstrate compliance with 980 CMR 16.00: *Prefiling Consultation and Engagement Requirements*, by describing all pre-filing consultation and community engagement for the CEIF Project. Pre-filing Consultation and Engagement shall comply with requirements in 980 CMR 16.00 and meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.” This paragraph shall not apply to M.G.L. c. 164, § 69V Applications for a Consolidated State Permit for SCEGF or SCESF if the Applicant also seeks a Consolidated Local Permit from Local Government.

2. Waiver. If the Applicant has not complied with Pre-filing Consultation and Engagement requirements in 980 CMR 16.00, the Applicant may request a waiver of applicable Pre-filing Consultation and Engagement Requirements. The Applicant shall attach the Division of Public

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Participation decision rendered in the 980 CMR 16.03(1): *Waiver of Pre-filing Rules* with its Application.

3. Continuing Consultation and Engagement. The Applicant shall describe each commitment for continuing consultation and community engagement during Construction and after the CEIF Project is operational.

(e) Benefits of the CEIF Project. The Applicant shall describe the benefits of the CEIF Project, including, but not limited to, energy benefits, environmental benefits, local benefits, and other benefits. The Applicant may include efforts to enhance benefits, such as shared use, recreational paths, or access to nature. Benefits of the CEIF Project shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(f) Climate Change Impacts. The Applicant shall describe consideration of reasonably foreseeable climate change impacts of the CEIF Project including, but not limited to, greenhouse gas emissions, climate resilience, predicted sea level rise, flooding, and other climate change impacts. See M.G.L. c. 164, § 69H.

(g) Cumulative Impact Analysis (CIA) and Site Suitability Reports. The Applicant shall provide CIA and Site Suitability Reports, as specified in 980 CMR 15.00: *Cumulative Impact Analysis And Standards For Applying Site Suitability Criteria*, and as further specified in “13.00: EFSB Consolidated Permit Application Guidance.”

(h) Environmental Impacts. The Applicant shall describe environmental impacts of the CEIF Project. The Applicant shall describe the environmental burdens and a description of efforts to avoid, minimize, and mitigate each burden. The Applicant shall describe, at least, the following environmental impacts resulting from the CEIF Project: (i) land-based resources, including land use and land resources; (ii) rare species; (iii) historical and archeological resources; (iv) water resources and aquatic ecology; (v) transportation; (vi) air quality; (vii) climate mitigation and resiliency; (viii) public health, safety, and security; (ix) solid waste and hazardous materials; (x) radiation, including magnetic fields; (xi) noise and vibration; and (xii) visual. The description of environmental impacts shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(i) CEIF Project Reliability. The Applicant shall provide an analysis of the reliability benefits of the CEIF Project which shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(j) Policies of the Commonwealth. The Applicant shall summarize relevant energy, environmental, land use, labor, economic justice, environmental justice and equity, and public health and safety policies of the Commonwealth, its subdivisions and its municipalities that apply to the CEIF Project. The Applicant shall demonstrate how the CEIF Project complies with each applicable policy as specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance.”

(k) Decommissioning and Site Restoration Plan. The Applicant shall file a decommissioning and site restoration plan as described in 980 CMR 1.10: *Decommissioning and Site Restoration Plan*. The Applicant shall indicate if the

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CEIF Project does not require decommissioning or site restoration and include an explanation.

(2) LCTDIF and SCTDIF Requirements. The following shall apply only to M.G.L. c. 164 §§ 69T, 69U Applications for LCTDIF and SCTDIF.

(a) LCTDIF and SCTDIF Need. The Applicant shall provide analysis demonstrating the need for an LCTDIF and SCTDIF, in Massachusetts and outside Massachusetts, if applicable. The Applicant shall provide analysis based on reliability considerations, load projections, state policy, a combination of these, or another reason with explanation. LCTDIF and SCTDIF need shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(b) System Benefits. The Applicant shall describe how the LCTDIF and SCTDIF will increase the capacity of the system to interconnect large electricity customers, electric vehicle supply equipment, clean energy generation, clean energy storage, or other clean energy generation sources that qualify under 310 CMR 7.75, or facilitate the electrification of the building and transportation sectors.

(c) LCTDIF and SCTDIF Project Alternatives. The Applicant shall describe alternative methods of transmitting or storing energy; describe LCTDIF and SCTDIF alternatives evaluated to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts; other sources of electrical power; or a reduction of requirements through energy efficiency or load management. The Applicant shall describe consideration or implementation of advanced conductors, advanced transmission technologies, grid enhancement technologies, non-wire alternatives, and other alternatives to avoid, minimize, or mitigate expenditures. LCTDIF and SCTDIF alternatives shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(d) Route and Site Selection. The Applicant shall describe other routes or site locations. The Applicant shall demonstrate: (i) the Applicant has considered a reasonable range of practical siting alternatives; (ii) the Applicant’s proposed LCTDIF and SCTDIF would be sited in locations that avoid or minimize or, if impacts cannot be avoided or minimized, mitigate environmental impacts and negative health impacts, to the extent practicable, while ensuring a reliable, resilient, and clean supply of energy consistent with the Commonwealth’s climate change and greenhouse gas reduction policies and requirements; (iii) the Criteria-specific Suitability Scores for the Applicant's proposed LCTDIF and SCTDIF, if applicable; and (iv) that the proposed LCTDIF and SCTDIF will be constructed in a manner that avoids or minimizes costs. Route and site selection description shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

(e) LCTDIF and SCTDIF Cost. The Applicant shall provide an analysis of cost estimates associated with the LCTDIF or SCTDIF, including net present value of an LCTDIF or SCTDIF cost and impacts on ratepayers, as applicable. LCTDIF or SCTDIF costs shall meet Board specifications in “13.00: EFSB Consolidated Permit Application Guidance.”

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(3) LCEGF, LCESF, SCEGF, and SCESF Requirements. The following shall apply to M.G.L. c. 164 §§ 69T, 69V Applications for LCEGF, LCESF, SCEGF, and SCESF.

- (a) Site Selection and Site Alternatives. The Applicant shall describe the LCEGF, LCESF, SCEGF, or SCESF site selection process and any alternative sites considered in choosing the proposed location of the LCEGF, LCESF, SCEGF, or SCESF. The Applicant shall describe how this site selection process avoids or minimizes or, if impacts cannot be avoided or minimized, mitigates impacts of the CEIF Project.
- (b) The Applicant shall: provide the Criteria-specific Suitability Scores for the Applicant's proposed LCEGF, LCESF, SCEGF, or SCESF.

### 13.04: EFSB Consolidated Permit Application Requirements: Zoning Exemptions.

- (1) The Board may grant zoning exemptions pursuant to M.G.L. c. 40A, §3; St. 1956, c. 665, § 6; and M.G.L. c. 164, §§ 69T-69V, inclusive.
- (2) The Applicant shall include in its Application a statement as to whether it is seeking zoning exemptions for the CEIF Project pursuant to M.G.L. c. 40A, §3; St. 1956, c. 665, § 6; M.G.L. c. 164, §§ 69T-69V.
- (3) If an Applicant seeks zoning exemptions for a CEIF Project, the Applicant shall file an EFSB Consolidated Permit Application containing a zoning exemption request, and the Applicant shall:
  - (a) File the request for zoning exemptions as part of its Application, pursuant to the requirements of M.G.L. c. 40A § 3, or St. 1956, c. 665, § 6.
  - (b) Describe each exemption from local bylaws or ordinances that the CEIF Project requires in order to be constructed. The zoning exemption description shall include, at least: (i) a copy of the applicable zoning bylaws or ordinances; (ii) the type of zoning exemption requested; and (iii) a reason the zoning exemption is necessary for the CEIF Project. Zoning exemption requirements shall be detailed by the Board in “13.00: EFSB Consolidated Permit Application Guidance.”
  - (c) If the Applicant requests a comprehensive zoning exemption, the Applicant shall describe how such relief could avoid substantial public harm by serving to prevent a delay or denial in the construction and operation of the proposed use.
- (4) The zoning exemptions request shall be automatically consolidated with the Application for a Consolidated Permit upon filing of the Application containing the zoning exemptions request. See 980 CMR 1.09(2): *Consolidation*.

### 13.05: EFSB Consolidated Permit Application Requirements: Required Permits.

- (1) Contents of Required Permit Requests in Application. The Applicant shall provide the following information for requested Permits. An Applicant shall include proposed conditions as part of its EFSB Consolidated Permit Application. See 980 CMR 13.09. The Applicant shall review the Common Conditions in proposing such

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conditions, and may proffer any modifications or supplemental conditions that it deems necessary to meet applicable requirements.

(a) State Permits. The Applicant shall provide the following for each state Permit required for the CEIF Project:

1. Identify the state Permit, the related PEA name, and the name of the agency permitting program or office;
2. A summary of why the state Permit is necessary for the CEIF Project;
3. A completed Permit application form and required filing documents applicable to the CEIF Project and the PEA that would normally issue such a Permit consistent with applicable statutes, regulations, and guidance for that Permit;
4. A draft Permit proposed for the CEIF Project, including but not limited to applicable Common Conditions, inclusive of any supplemental conditions or modifications proposed by the Applicant to ensure consistency with the substantive requirements of applicable state Permit statutes regulations, and guidance;
5. The baseline environmental, health, safety, and other standards applicable to the CEIF Project, as specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance,” Attachment 2: *Uniform Set of Baseline Health, Safety, Environmental, and other Standards*;
6. A copy of the written comments provided to the Applicant by the PEA during Agency Consultation pursuant to 980 CMR 16.00;
7. Documentation showing how the State Permit application and draft proposed State Permit submitted to the Board pursuant to this section address the written comments of the PEA received during Agency Consultation; and
8. The application fee for the CEIF Project that the PEA would charge for the requested Permit, absent the EFSB Consolidated Permit Application.

(b) Local Government Permits. This section shall not apply to M.G.L. c. 164 § 69V, Applications for SCEGF and SCESF. The Applicant shall provide the following for each Local Government Permit required for LCEIF under M.G.L. c. 164 § 69T or SCTDIF under M.G.L. c. 164 § 69U:

1. The name of the Local Government Permit, the name of the municipality where the Permit is sought, and the name of the PEA having enforcement oversight for the Permit.
2. A description of why the Local Government Permit is necessary.
3. A completed Permit application and required filing documents pursuant to either of the following at the discretion of the Applicant: (1) local PEA requirements; or (2) the Consolidated Local Permit Application specified in 225 CMR 29.00.
4. A draft Local Government Permit proposed for the LCEIF or SCTDIF Project, including but not limited to applicable Common Conditions, inclusive of any supplemental conditions or modifications proposed by the Applicant. The type of Local Government Permit(s) requested (i.e., a Consolidated Local Permit or individual Local PEA

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Permits) shall be consistent with the related Application used by the Applicant.

5. The baseline environmental, health, safety, and other standards applicable to the CEIF Project, as specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance,” Attachment 2: *Uniform Set of Baseline Health, Safety, Environmental, and other Standards*.

6. A copy of the written comments provided to the Applicant by the PEA during Agency Consultation pursuant to 980 CMR 16.00.

7. Documentation showing how the State Permit application and draft proposed State Permit submitted to the Board pursuant to this section address the written comments of the PEA received during Agency Consultation. The application fee for the CEIF Project that the PEA would charge for the requested Permit, absent the EFSB Consolidated Permit Application.

(c) Federal Permits. For context and general informational purposes only, the Applicant shall provide a list of federal permits required for the CEIF Project. The list of federal permits shall include the following for each federal permit:

1. The completed federal permit form.
2. A summary of the federal permit.
3. The date the Applicant requested a federal permit and the date the Applicant received or anticipates receiving the federal permit.
4. The status of the federal permit when the Application is submitted.

(d) Ministerial Permits. The Applicant shall provide a list of each Ministerial Permit anticipated for the CEIF Project. An Applicant shall specify whether such Ministerial Permits are sought from the Board, or directly from the applicable PEAs using the PEAs’ standard procedures. Ministerial Permits requested in an EFSB Consolidated Permit Application would be issued by the Director in response to an Applicant’s compliance filing following a Final Decision of the Board approving the CEIF, or following a CEIF Project’s Constructive Approval.

(e) Federally Delegated Permits.

1. General. The Applicant shall identify all required federal permits for which authorization to issue the permit has been delegated to a Massachusetts state agency. The Applicant shall provide information pursuant to 980 CMR 13.05(1)(c): *Federal Permits*.

2. Presumption. The Board presumes that federally delegated permits may not be issued in the EFSB Consolidated Permit without Board approval of a request for inclusion in 980 CMR 13.05(1)(e)(3).

3. Request for Inclusion. An Applicant may request in the Application that the Board issue a federally delegated permit in the EFSB Consolidated Permit. The request for inclusion of the federally delegated permit shall include all information as required by 980 CMR 13.05(1)(a): *State Permits*.

(2) Procedures for Requested Permit(s) in Application.

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- (a) Permit Applicability. Prior to submitting an Application to the Board, the Applicant shall, pursuant to 980 CMR 16.00: *Prefiling Consultation and Engagement Requirements*, determine which Permits the CEIF Project requires.
- (b) Conflicts. The Applicant shall expressly identify duplicative information or conflicting requirements across Permits included in the Application. The Applicant shall provide a proposed resolution of such conflicting or duplicative requirements, with an explanation.
- (c) Proof of Notice. The Applicant shall provide proof to the Board that each PEA and PAA received notice of each Permit for the CEIF Project, for which they would have had subject matter jurisdiction if the Applicant had sought a Permit with that agency.

### 13.06: Completeness Determination.

- (1) Completeness Review.
  - (a) The Presiding Officer shall review each Application submitted to the Board.
  - (b) The Presiding Officer shall make a Completeness Determination in writing within 30 days of filing of the Application with the Board.
  - (c) The Completeness Determination shall not be subject to appeal.
  - (d) The Presiding Officer may communicate with a PEA and PAA regarding a Completeness Determination; such communications shall not be considered *ex parte* communication, pursuant to 980 CMR 1.03(7), unless the communication is substantive and occurs after a Notice of Completeness.
  - (e) The Presiding Officer may require the Applicant to provide supplemental evidence for the Application. Supplemental evidence may include supporting documents, work papers, modeling, studies, authorities cited, and reference to any other evidence relied upon in the Application.
  - (f) The Presiding Officer shall determine whether the information required by the Board is provided by the Applicant in the Application. The Completeness Determination is intended to be administrative in nature and is not intended to be an evaluation on the substantive merits of each piece of information provided by the Applicant to facilitate Completeness Determinations.
- (2) Notice of Completeness. The Presiding Officer shall determine that an Application is complete if the Application is in substantial and material compliance with the following:
  - (a) Application requirements in 980 CMR 13.03: *EFSB Consolidated Permitting Application Requirements*.
  - (b) Zoning exemption requirements in 980 CMR 13.04: *EFSB Consolidated Application Requirements: Zoning Exemptions*, if applicable.
  - (c) Permitting requirements in 980 CMR 13.05: *EFSB Consolidated Application Requirements: Required Permits*.
  - (d) Filing requirements in 980 CMR 13.07(1).
  - (e) Conditions requirements in 980 CMR 13.09: *Conditions for EFSB Consolidated Permit*.
  - (f) The Completeness Determination Checklist completed by the Applicant. The Completeness Determination Checklist shall be in the form specified by the

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Board in “13.00: EFSB Consolidated Permit Application Guidance,” Attachment 3: *Application Completeness Determination Checklist*.

(3) Incomplete Application. If the Presiding Officer determines that an Application is incomplete, the Presiding Officer shall notify the Applicant and shall identify with specificity all items that are not in substantial and material compliance with Application requirements. The Applicant shall respond, within 30 days of notice of an incomplete Application, to cure each deficiency identified by the Presiding Officer. The Application may only be determined to be incomplete twice before the Application shall be rejected per 980 CMR 13.06(6): *Rejected Applications*.

(a) Missing Permit. If the Presiding Officer, prior to the issuance of the final decision by the Board, determines that a Permit was not included in the Application, the Presiding Officer may deem the Application incomplete. The Applicant shall file an amended Application with the Board and the omitted Permit with the PEA that would have subject matter jurisdiction over the contents of the Permit. The Presiding Officer may extend the Board’s review timeframe when reasonable to ensure adequate participation by each PEA; the Presiding Officer may start a new review timeframe when the Presiding Officer issues a Notice of Completeness.

(b) Changes to a CEIF Project before Final Decision. If an Applicant identifies significant changes to a CEIF Project before the Board issues a final decision, the Presiding Officer may determine the Application incomplete. The Application shall be subject to a Completeness Determination upon the filing of a supplemental Application. The Presiding Officer may extend the Board’s review timeframe when reasonable to ensure adequate review of the changes to a CEIF Project; the Presiding Officer may start a new review timeframe when the Presiding Officer issues a Notice of Completeness. If the Presiding Officer begins a new review timeframe, the record shall be supplemented by the Applicant for significant change.

(c) Agency to Identify Deficiencies. Each PEA or PAA may describe any deficiencies in the Permit documentation provided by the Applicant within 21 days of receipt of an Application filed with the Board which includes a Permit for which the PEA or PAA would have subject matter jurisdiction. The Presiding Officer shall determine if a deficiency is substantial and material. The Presiding Officer may deem the Application incomplete as described in 980 CMR 13.06(3): *Incomplete Application* if a deficiency is determined to be substantial and material.

(4) Incomplete Application: Deficiencies. The Applicant shall file the following within 30 days of notice of the deficiency in an incomplete Application if the Presiding Officer determines the Application does not substantially and materially comply with Application Requirements:

(a) Identify each deficiency in the Application, including the section or Permit, and the page number or exhibit.

(b) The complete cured section or Permit for each identified deficiency. If a section or Permit contains multiple deficiencies, provide the complete cured section or Permit for the group of deficiencies identified for that section or Permit.

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- (c) Proof of service of notice of the filing of the cured Permit to the PEA or PAA whose jurisdictional responsibilities are affected by the deficiency.
- (5) Extensions of Time. The Presiding Officer may provide extensions of time to exceed 30 days to cure deficiencies if the Applicant demonstrates extenuating circumstances for the delay. The Applicant shall provide a request for an extension in writing within 30 days of filing the Application. The Presiding Officer shall state a reason for the extension and a new deadline in a ruling on an extension request.
- (6) Rejected Applications.
  - (a) Failure to Timely Cure. The Presiding Officer shall reject an Application if the Application is determined to be incomplete and the Applicant does not file a modified Application addressing each identified deficiency within the time permitted. If the Application is rejected for failure to timely cure, absent extenuating circumstances, the Applicant may not file an Application for the same CEIF Project within three months of rejection.
  - (b) Failure to Cure. The Presiding Officer shall reject an Application determined to be incomplete three consecutive times. If the Application is rejected for Failure to Cure, absent extenuating circumstances, the Applicant may not file an Application for the same, or substantially similar, CEIF Project within six months of rejection.
  - (c) Previously Rejected Applications. The Presiding Officer shall deem a rejected Application docket closed. The Presiding Officer shall review any subsequent Application for a CEIF Project independent of any prior Application submitted to the Board.

### 13.07: EFSB Consolidated Permit Application Review Procedures.

- (1) General.
  - (a) Filing. The Applicant shall file an Application in the manner specified by the Board in “13.00: *EFSB Consolidated Permit Application Guidance*.”
  - (b) Concurrent Filings. The Applicant shall submit a copy of each draft Permit filed with the Board pursuant to 980 CMR 13.05: *EFSB Consolidated Application Requirements: Required Permits* to the PEA that may enforce that Permit. See 980 CMR 13.05(2)(c).
  - (c) Updated Filing. The Applicant may file updates or supplements to the Application after the Notice of Completeness, 980 CMR 13.06(2): *Notice of Completeness*, is issued, if any material changes in Project design, construction, or operation are presented as part of the evidentiary record.
- (2) Intervention and Rulings. The following shall apply to PEAs and PAAs, regarding requests for intervention:
  - (a) PEA Intervention. Each PEA is deemed to be substantially and specifically affected by the proceeding if the PEA would have had subject matter jurisdiction over a Permit included in the Application and shall be granted intervenor status upon written notification to the Presiding Officer.

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(b) PAA Intervention. If a PAA seeks to intervene or participate in the EFSB Consolidated Permit proceeding, the PAA shall follow intervention rules pursuant to 980 CMR 1.05: *Intervention*.

(3) Adjudicatory Proceeding. Following a Notice of Completeness, the Presiding Officer shall propose a schedule for adjudicatory proceeding. The adjudicatory proceeding shall substantially comply with the form and timeline specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance.” The adjudicatory procedures shall include the following elements for an EFSB Consolidated Permit proceeding unless the Presiding Officer states otherwise:

(a) Public Comment Hearing(s). The Presiding Officer shall schedule a public comment hearing(s) to occur within 45 days of a Notice of Completeness.

(b) Deadline for Public Comments. The Presiding Officer shall set the deadline for public comments not less than two weeks following the last date of public comment hearing(s).

(c) Deadline for Petitions for Intervention and Limited Participant Status. The Presiding Officer shall set the deadline for petitions for intervention and Limited Participant status not less than two weeks after the last date of public comment hearing(s).

(d) PEA Notification of Intention to Intervene. A PEA shall notify the Presiding Officer at or before the deadline for petitions for intervention of its intention to intervene in the CEIF Project proceeding.

(e) Presiding Officer Ruling and Procedural Ground Rules. The Presiding Officer shall issue a ruling on petitions for intervention, including confirmation of PEA intervenors, and Limited Participant status in a reasonable timeframe. The Presiding Officer shall issue the service list and procedural ground rules with the ruling for intervention and Limited Participant status.

(f) Preliminary Procedural Conference and Procedural Order. The Presiding Officer shall schedule a preliminary procedural conference at their discretion after issuing the ruling on petitions for intervention and Limited Participant status. See 980 CMR 13.07(4).

(g) Issuance of Information Requests and Responses. A Party shall not issue information requests prior to the issuance of procedural ground rules, except the Presiding Officer or the Board may issue information requests. The deadline for responses to information requests may not be less than two weeks from the issuance of information requests, unless good cause is shown for a different date.

(h) Deadline for Pre-Hearing Testimony to be Filed by Intervenor(s). The Presiding Officer shall set the deadline for pre-hearing testimony filed by Parties with intervenor status not less than two weeks prior to the initial evidentiary hearing.

(i) Deadline to Submit Statements of Recommended Permit Conditions. The Presiding Officer shall set the deadline for Parties and PEAs to submit to the Board statements of recommended Permit conditions not less than three weeks before the initial evidentiary hearing. See 980 CMR 13.07(5).

(j) Evidentiary Hearing(s). The Presiding Officer shall schedule the evidentiary hearing(s) at their discretion and in consultation with the Parties.

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(k) Record Requests and Responses. The Presiding Officer may set the deadline for responses to record requests at the evidentiary hearing in consultation with the Parties but may not set the deadline for more than two weeks from the date of the last evidentiary hearing, unless good cause is shown for a different date.

(l) Conditions Conference. The Presiding Officer shall schedule a Conditions Conference following the evidentiary hearing(s) and receipt of record request responses. See 980 CMR 13.07(6).

(m) Conditions Comments. The Parties may provide written comments regarding Conditions discussed at the Conditions Conference within one week of the Conditions Conference.

(n) Initial Brief(s). The Presiding Officer shall set the deadline for the Parties to file initial brief(s) within three weeks of the deadline for Conditions Comments, unless good cause is shown for a different date.

(o) Reply Brief(s). The Presiding Officer shall set the deadline for reply brief(s) to be filed not more than two weeks after the deadline for initial brief(s), unless good cause is shown for a different date.

(p) Tentative Decision. The Presiding Officer shall determine the timeline to issue a Tentative Decision pursuant to 980 CMR 1.08(2): *Tentative Decision* based upon the applicable deadline for a final decision.

(q) Board Meeting. The Presiding Officer shall schedule a Board meeting within the applicable review timeframe for 980 CMR 1.08(3): *Final Decisions*. See 980 CMR 13.02(4): *Board Decision*; 980 CMR 13.10: *EFSB Consolidated Permit Decisions*.

(4) Preliminary Procedural Conference and Scoping Order. The Presiding Officer shall notify the Parties of the opportunity to participate in the preliminary procedural conference. The Presiding Officer shall conduct a Preliminary Procedural Conference to discuss the procedural schedule and topic scope during adjudication.

(a) Topic Scope. At the preliminary procedural conference, the Presiding Officer shall establish the scope of an EFSB Consolidated Permit, including, but not limited to:

1. Topics which require discussion and analysis.
2. Topics each Party agrees satisfy the requirements of the Board.
3. Topics each Party agrees do not necessitate extensive analysis or inquiry.
4. Possible conditions to be applied to the CEIF Project.

(b) Scoping Order. The Presiding Officer shall issue a scoping order following the Preliminary Procedural Conference. The scoping order shall summarize the topics and indicate the scope of topics to be addressed through additional adjudication.

(c) Procedural Schedule. The Presiding Officer will issue a final procedural schedule for the adjudicatory proceeding.

(5) Statement of Recommended Permit Conditions. Each PEA may submit a statement of recommended Permit conditions regarding the subject matter for which the PEA would otherwise issue a Permit, regardless of intervention status. If a PEA

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has consulted with a PAA in the creation of their statement of recommended Permit conditions, the PAA shall be identified. Each Party may submit a statement of recommended Permit conditions for the CEIF Project. The Applicant may propose modifying or supplementing Permit conditions previously submitted as part of the Application. Each statement of recommended Permit conditions shall comply with the form and requirements specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance.”

(6) Conditions Conference. The Presiding Officer shall conduct a Conditions Conference to discuss with the Parties each condition the Presiding Officer anticipates will apply to the Project. The Conditions Conference may occur after the evidentiary record is closed.

(a) Proposed Conditions. The Presiding Officer shall provide each Party with a draft of proposed conditions proposed for the CEIF Project, prior to the Conditions Conference. Conditions may include Common Conditions the Presiding Officer deems appropriate, any recommended Permit conditions submitted by a Party or PEA, and other proposed conditions. The Presiding Officer shall explain the reasons to adopt or reject each condition proposed.

(b) Recommended Permit Conditions and Requirements. After the Conditions Conference, the Presiding Officer shall provide the Parties and PEAs with a list of EFSB Consolidated Permit Conditions and requirements recommended by the Presiding Officer (Presiding Officer Recommended Permit Conditions and Requirements).

(7) Unexcused Delay.

(a) Applicant Responses. The Applicant shall be responsible for responding to all inquiries and requests for information from the Board and Parties within a specified time. See 980 CMR 13.07(3): *Adjudicatory Proceeding*.

1. Delay. An Applicant’s response to inquiries and requests for information from the Board and Parties shall be unexcused if a response is provided after the specified time and no extension of time is granted by the Presiding Officer.

2. Remedies. The Presiding Officer may take one or more of the following actions in response to an unexcused delay:

a. Warning. Issue a written warning to the Applicant that any additional delay may result in additional penalties.

b. Incomplete Due to Delay. Deem the Application Incomplete, as described in 980 CMR 13.06(3): *Incomplete Application*, if the Applicant’s responses to inquiries are beyond the time specified more than once and no extension is granted by the Presiding Officer.

(b) Delay Cure. After the Application is deemed incomplete due to delay, the Presiding Officer may issue a Notice of Completeness if the Applicant provides (i) the responses to the delayed inquiries; (ii) an explanation for the delay; and (iii) an explanation for how future delays will be avoided. The Presiding Officer shall set the review timeframe, as described in 980 CMR 13.02(4)(a): *Review Timeframe*, using the updated Notice of Completion date.

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### 13.08: Baseline Health, Environmental, Safety, and Other Standards.

(1) Baseline Standards. The Board shall develop Baseline Health, Environmental, Safety, and Other Standards (“Baseline Standards”) to be applied for CEIF Projects. The Baseline Standards shall ensure a minimum uniform set of standards for all CEIF Projects reviewed by the Board. Baseline Standards shall be specified by the Board in “13.00: EFSB Consolidated Permit Application Guidance,” Attachment 2: *Uniform Set of Baseline Health, Safety, Environmental, and Other Standards*.

### 13.09: Conditions for EFSB Consolidated Permit.

(1) Final Decision Includes Conditions. The Board may include conditions in its final decision on a Consolidated Permit.

(2) Common Conditions. The Board shall establish Common Conditions. The Board’s Common Conditions shall include those listed in “13.00: EFSB Consolidated Permit Application Guidance,” Attachment 1: *Common Conditions and Requirements for EFSB Consolidated Permits*.

(3) Conditions Applied by the Board in a Final Decision. Conditions in the Tentative Decision on a CEIF Project, may include, but are not limited to:

- (a) Conditions proposed by the Applicant in its Application. 980 CMR 13.05(1).
- (b) Conditions proposed by PEAs in a statement of recommended Permit conditions and those proposed by Parties. 980 CMR 13.07(5).
- (c) Presiding Officer Recommended Permit Conditions and Requirements. 980 CMR 13.07(6).

In issuing the final decision, the Board may adopt, reject, or modify the conditions proposed in the Tentative Decision.

(4) Conditions Applied by the Board in a Constructive Approval. The Board shall apply conditions in a Constructive Approval pursuant to 980 CMR 17.00.

### 13.10: EFSB Consolidated Permit Decisions.

(1) Final Decision. The Board shall approve, approve with conditions, or reject each Application for an EFSB Consolidated Permit. The final decision of the Board for an EFSB Consolidated Permit shall be as described in 980 CMR 13.10: *EFSB Consolidated Permit Decisions*. The Board shall include findings described in 980 CMR 2.06(3): *Required Findings*. The Board shall give due consideration to the substantive standards of applicable permitting statutes, regulations, and guidance of the PEAs. If approved, the Board shall issue an EFSB Consolidated Permit in the form of a composite of all individual Permits otherwise necessary for the construction and operation of the CEIF Project pursuant to M.G.L. c. 164 §§ 69T-69V, inclusive.

(2) Zoning Exemptions. Zoning exemptions, if granted by the Board, shall be issued as part of the final decision for an EFSB Consolidated Permit.

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- (3) Permits. The Board's issuance of an EFSB Consolidated Permit shall be a composite of all Permits that would otherwise be necessary for the Construction and operation of a CEIF Project.
- (4) Conditions Applicable to the CEIF Project. The Board shall state each condition and Permit requirement applicable to the CEIF Project. The Board shall identify the entity with jurisdiction to enforce each condition and Permitting requirement.

### 13.11: Enforcement of EFSB Consolidated Permit Conditions and Requirements.

- (1) Jurisdiction.
  - (a) The PEA shall enforce each condition and Permit requirement whose subject matter is within their jurisdiction as if the EFSB Consolidated Permit had been directly granted by said PEA. A Final Decision of the Board shall identify the applicable PEA for each condition.
  - (b) The Board shall enforce each condition or Permit requirement whose subject matter is not within the jurisdiction of a PEA. A Final Decision of the Board shall identify which conditions and requirements it shall enforce directly, rather than through a PEA.
- (2) Enforcement Procedure. An alleged violation of conditions or other permitting requirements may be reported through an accessible reporting portal, to be established by the Board, and may be reported through other routine means of written agency communication such as U.S. Mail or electronic mail. A copy of the reported alleged violation shall be provided to the affected PEA.
  - (a) A violation of conditions or Permit requirements enforced by a PEA shall follow enforcement procedures as prescribed by that PEA.
    1. A PEA may request clarification or guidance from the Board regarding a condition or Permit requirement.
    2. If such a request is made by a PEA, the Director shall provide guidance or clarification as soon as practicable, and within 21 days of receiving such request.
  - (b) A violation of the conditions or Permit requirements enforced by the Board shall proceed as follows:
    1. The alleged violation shall be reported to the Board in writing. The Board shall develop a form for submitting written alleged violations. The form for a written alleged violation shall be specified by the Board.
    2. The Director may request additional information on the alleged violation.
    3. The Director shall make a timely ruling on the alleged violation. The Director shall provide a copy of the draft ruling to the Person alleging the violation, and the Parties and Limited Participants in the proceeding where the Board granted the EFSB Consolidated Permit. The Director shall set a deadline for comment on the draft ruling, and consider such comments before issuing a final ruling.
    4. The Director may take one or more of the following actions as part of their ruling on an alleged violation:

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- a. Dismiss the alleged violation;
- b. Provide time to remedy the alleged violation;
- c. Subject the CEIF Project to a probationary period during which the Director may apply additional conditions to maintain compliance with conditions or Permit requirements; or
- d. Impose a reasonable penalty pursuant to M.G.L. c. 164, § 69H(4).

REGULATORY AUTHORITY

980 CMR 13.00: M.G.L. c. 164 §§ 69G, 69H, 69P, 69T, 69U, 69V; M.G.L. c. 25A, §21; M.G.L. c. 40A, §3.